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# Safeguarding a legacy

Setting up trusts or corporate entities are steps investors can and should take to minimise the burden on surviving family members



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**N**ORMALLY the end of the year is prime time for forecasters to give us their best ideas for the next 12 months. Like last year where two big consensus trades in investing were forming: buy European equities on a eurozone recovery, and sell short long-dated US Treasuries on higher US dollar interest rates.

European equities on the whole made no money in 2014, and suffered losses when taking into account the euro's sharp fall. US Treasuries also defied expectations and gained 27 per cent last year, among the best performing asset classes in the world.

Instead of more investment forecasts, I'd like to focus on a far more certain way to protect your assets – steps that every investor should take, but in my experience rarely does. I am neither a tax adviser nor a lawyer, so proper advice tailored to each investor's personal situation should be sought before considering

any changes in one's circumstances.

My grandfather passed away a decade ago, and I saw first-hand what a mess he left behind for my grandmother. Assets were scattered in many jurisdictions, and the probate process to have the assets released to his wife took many years to finally complete.

Even worse, by the time my grandmother passed away, the probate was still not fully completed in some countries, and the burden was passed onto all the children to deal with. This kind of situation can be avoided with a few simple steps which are easy to execute.

First of all, financial investment assets of significant size should ideally be held under corporate structures instead of in one's personal name. Assets held in personal names, especially those held offshore where the probate process can be more complicated and take longer to complete, may be blocked for a long time.

Additionally, every offshore jurisdiction has its own laws which could affect investors. For example, a little known fact is that upon the death of an individual, US equities held in the name of that individual are considered "US situs assets" and are subject to US estate duty taxes, even if the individual is not American.

Proper planning, such as the setting up

of trusts or corporate entities, are steps that an investor can and should take in order to minimise the burden on their surviving family members.

Second, it is good to plan ahead for the possibility that the investor should still be alive but lose mental capacity. Singapore has recently revised and simplified the Lasting Power of Attorney (LPA), which allows adults to appoint one or more persons to make decisions on their behalf in the event of having lost the ability to do so themselves.

It is critical to choose carefully who receives an LPA, as this person must be fully trusted by the investor with such decision-making power. Normally LPA recipients would be close family members, such as spouses, children or parents.

## Legal jurisdiction

Third, an investor needs a will in every jurisdiction where they hold assets. A will made in Singapore is not directly applicable to another country's legal jurisdictions, and the legal process can be complicated and take many years to sort out. This process can be simplified significantly by having a will set up for every applicable asset in every country in question.

As you can imagine, owning real estate in five different countries means five separate wills, leading many people

not to bother. The small inconvenience of setting up a proper will is far preferable to your surviving family members having to prove their right of claim in each of the applicable jurisdictions.

This also means that if investors use the common method of holding financial assets via a corporate entity, such as a BVI (British Virgin Islands) company, there should be a valid BVI will in place that covers the passing of your shares in this holding company upon the investors' death. The good news is that many lawyers in Singapore can assist in the drafting and execution of wills for different jurisdictions such as BVI.

These steps may seem tedious to the investor. As any surviving spouse who has had to deal with these issues will tell you, a few days spent setting things up properly now can save years of frustration later. These simple steps would have enabled my grandmother to spend her last few years in peace, instead of having to deal with the legal system in many countries which proved to be a big headache that consumed far too much of her time and energy. **W**

AL Wealth Partners is an independent Singapore-based company providing fund management and advisory services to accredited investors